REMARKS/ARGUMENTS

Claims 1, 5, 7-10, and 14 are pending in the present application. Claims 1, 5, 7, 10, and 14 are amended. Claims 2-4, 6, 11-13, and 15-43 are canceled. Support for the claim amendments can be found in the claims as originally filed, as the claim amendments incorporate features from previously presented dependent claims, and in the Specification at least on page 10, lines 8-9 and page12, lines 11-15. No new matter is added. Reconsideration of the claims is respectfully requested.

Applicants have amended some claims and canceled others. Applicants do not concede that the subject matter encompassed by the earlier presented claims is not patentable over the art cited by the Examiner. Applicants canceled claims in this response solely to facilitate expeditious prosecution of this application. Applicants traverse all rejections and respectfully reserve the right to pursue the earlier-presented claims, and additional claims, in one or more continuing applications.

I. 35 U.S.C. § 101

The Examiner has rejected claims 29-38 under 35 U.S.C. § 101 as being directed towards non-statutory subject matter. Applicants have canceled claims 29-38. Therefore the rejection with respect to these claims is moot.

II. 35 U.S.C. § 112, Second Paragraph

The Examiner has rejected claims 1, 15, 29 and 43 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter, which applicants regard as the invention. In rejecting the claims the Examiner states:

> Claims 1, 15, 29, and 43 each recite the limitation "on the network". There is insufficient antecedent basis for this limitation in the claim.

Office Action of April 10, 2008, page 3.

Applicants have canceled claims 15, 29, and 43. Therefore the rejection with respect to these claims is moot. Applicants have amended claim 1 to provide proper antecedent basis for the limitation "on the network". Claim 1 now recites "in a network." Applicants respectfully request this rejection be withdrawn.

III. 35 U.S.C. § 102, Anticipation

The Examiner has rejected claims 1, 2, 4, 8, 9, 11-13, 15, 16, 18, 22, 23, 25-27, 29, 30, 32, 36, 37, 39-41 and 43 under 35 U.S.C. § 102 as being anticipated by *Selit*rennikoff et al. (U.S. 6,209,089)(hereinafter "*Selit*"). Applicants have canceled claims 2, 4, 11-13, and 15-43. Therefore the

rejection with respect to these claims is moot. The rejection of the remaining claims is respectfully traversed.

Regarding the rejection the Examiner states:

> With respect to claims 1, 15 and 29, *Selit* teaches a method (and corresponding data processing system and computer program product), in a data processing system for conducting an inventory of the data processing system, the method comprising: launching a basic input output system during a boot process for the data processing system (Col. 9 lines 50-52: boot rom run program before operating system boots), wherein the basic input output system creates a hardware report of the data processing system (Col. 13 lines 20-29: detection of hardware information); and sending the hardware report to a remote data processing system on the network (Col. 18 lines 1-18 and lines 42-60: client reports detected hardware information such as the motherboard and NIC ID'S).

Office Action dated April 10, 2008, pp. 7-8.

A prior art reference anticipates the claimed invention under 35 U.S.C. § 102 only if every element of a claimed invention is identically shown in that single reference, arranged as they are in the claims. *In re Bond*, 910 F.2d 831, 832, 15 U.S.P.Q.2d 1566, 1567 (Fed. Cir. 1990). All limitations of the claimed invention must be considered when determining patentability. *In re Lowry*, 32 F.3d 1579, 1582, 32 U.S.P.Q.2d 1031, 1034 (Fed. Cir. 1994). Anticipation focuses on whether a claim reads on the product or process a prior art reference discloses, not on what the reference broadly teaches. *Kalman v. Kimberly-Clark Corp.*, 713 F.2d 760, 218 U.S.P.Q. 781 (Fed. Cir. 1983). In this case, each and every feature of the presently claimed invention is not identically shown in the cited reference, arranged as they are in the claims. Applicants first address the rejection of claim 1.

Applicants have amended claim 1 to incorporate features previously presented in claims 3 and 11. Amended claim 1 is as follows:

> 1. A computer implemented method in a data processing system for conducting an inventory of the data processing system, the computer implemented method comprising:
>
> launching a basic input output system comprising an inventory process during a boot process for the data processing system, wherein the basic input output system initiates the inventory process, wherein the inventory process collects a hardware inventory of components in the data processing system, wherein the data processing system is one in a plurality of data processing systems in a network;
>
> responsive to launching the basic input output system during the boot process of the data processing system, identifying hardware components in the data processing system to form an inventory prior to the launching of an operating system; and

> sending a report comprising the inventory to a listener server on the network using a communications interface, prior to launching the operating system, wherein a format type of the report is type in a group consisting of extensible mark up language, hypertext markup language, text in a flat file, and simple network management protocol, and wherein the listener server collects and receives the report from each data processing system on the network, and wherein the listener server is a default listener server.

Selit does not anticipate claim 1 because *Selit* does not teach "launching a basic input output system comprising an inventory process during a boot process for the data processing system wherein the basic input output system initiates the inventory process." The Examiner cites to *Selit* as teaching this feature in col. 9, lines 50-52. The cited to portion of *Selit* states:

> Network interface card 74 typically includes a boot ROM 76 and a NIC ID 78. Boot ROM 76 includes computer-executable code for initially communicating over the network infrastructure before the operating system boots on client computer 24. NIC ID 78 is a digital code that identifies network interface card 74 sufficiently to at least distinguish it from other types of network interface cards.

The section of *Selit* cited to by the Examiner teaches that the Boot Rom of a network interface card includes computer-executable code that enables the network interface card to communicate over the network. However, *Selit* does not teach that the Boot Rom is a basic input output system comprising an inventory process. *Selit* does not provide a basic input output system that launches the operating system and interfaces with a computer's major hardware components, e.g. a network interface card, chips, hard drives, processor, etc., to ensure the hardware components function properly with the operating system. In contrast, in claim 1 the basic input output system comprises an inventory process which is initiated by the basic input output system. Thus, *Selit* fails to teach "launching a basic input output system comprising an inventory process during a boot process for the data processing system wherein the basic input output system initiates the inventory process."

Additionally, *Selit* does not anticipate claim 1 because *Selit* does not teach the feature "sending the report to a listener server on the network using a communications interface prior to the launching of the operating system . . ." The Examiner cites to the following section as teaching this feature:

> Replacement motherboard 280 is of a different type than previous motherboard 80. Thus, replacement motherboard type ID 284 is different from previous motherboard type ID 84 and, according to decision block 136, the method advances to the sub-routine depicted in the flow chart of FIG. 12. In view of the assumption that the previous configuration of the operating system is not compatible with replacement motherboard 280, this sub-routine reconfigures the operating system to support the replacement motherboard. In step 302, client computer 24d sends replacement motherboard type ID 284 to the assigned server. The server interprets the transmitted motherboard type ID 284 as a request to install the version of the operating system that supports the replacement

> motherboard 280. In step 304, the server then locates the installation point 70 of FIG. 3, which is a repository containing operating system software and device drivers from which the operating system for the previous client computer 24c originated.

Selit, col. 18, lines 1-18

The above cited section teaches that when there is a change in the configuration of a computer system, such as the replacement of a motherboard, a sub-routine reconfigures the operating system to support the replacement motherboard. However, *Selit* does not teach that configuration changes are sent in a report to a listening server prior to the launching of the operating system. Moreover, claim 1 teaches that the report can be formatted in extensible mark up language, hypertext markup language, text in a flat file, or as a simple network management protocol. Because *Selit* does not teach this feature, *Selit* does not anticipate claim 1. Accordingly, 35 U.S.C. 102 rejection is overcome.

The remaining claims 5, 7-10, and 14 depend on independent claim 1. Therefore, at least by virtue of their dependence on claim 1, *Selit* does not anticipate these claims.

IV. 35 U.S.C. § 103, Obviousness

The Examiner has rejected claims 3, 5-7, 10, 14, 17, 19-21, 24, 28, 31, 33-35, and 42 under 35 U.S.C. 103(a).

IV.A. Claims 3, 17, and 31

The Examiner has rejected claims 3, 17 and 31 under 35 U.S.C. § 103 as being unpatentable over *Selit*rennikoff et al. (U.S. 6,209,089) in view of Rothman et al. (U.S. 2004/0109017)(hereinafter "*Rothman*"). Applicants have canceled claims 3, 17 and 31. Therefore the rejection with respect to these claims is moot. Although claim 3 is canceled, the features of claim 3 now appear in claim 1. Therefore, Applicants address the rejection of claim 3. Regarding the rejection of claim 3 the Examiner states:

> With respect to claims 3, 17 and 31, *Selit* teaches all the limitations of claim 2, 16 and 30 respectively, but does not explicitly disclose wherein the report is formatted in extensible mark up language, hypertext markup language, text in a flat file, or simple network management protocol.
>
> Rothman teaches hardware information can be reported in a number of formats including extensible markup language and hypertext markup language (Page 2 [0016]-[0017]).
>
> It would have been obvious to one of ordinary skill in the art at the time the invention was made to take the invention of *Selit* and modify it such that the report is formatted in extensible mark up language, hypertext markup language, text in a flat file,

> or simple network management protocol. One would be motivated to have this, as this allows simple network access through a web browser, for example (In Rothman: Page 2 [0016] - [0017]).

Office Action dated April 10, 2008, pp. 10-11.

The Examiner bears the burden of establishing a *prima facie* case of obviousness based on prior art when rejecting claims under 35 U.S.C. § 103. *In re Fritch*, 972 F.2d 1260, 23 U.S.P.Q.2d 1780 (Fed. Cir. 1992). The prior art reference (or references when combined) must teach or suggest all the claim limitations. *In re Royka,* 490 F.2d 981, 180 USPQ 580 (CCPA 1974). In determining obviousness, the scope and content of the prior art are… determined; differences between the prior art and the claims at issue are… ascertained; and the level of ordinary skill in the pertinent art resolved. Against this background the obviousness or non-obviousness of the subject matter is determined. *Graham v. John Deere Co.*, 383 U.S. 1 (1966). Often, it will be necessary for a court to look to interrelated teachings of multiple patents; the effects of demands known to the design community or present in the marketplace; and the background knowledge possessed by a person having ordinary skill in the art, all in order to determine whether there was an apparent reason to combine the known elements in the fashion claimed by the patent at issue. *KSR Int'l. Co. v. Teleflex, Inc.*, No. 04-1350 (U.S. Apr. 30, 2007). Rejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness. *Id.* (citing *In re Kahn*, 441 F.3d 977, 988 (CA Fed. 2006).

The Examiner has failed to state a *prima facie* obviousness rejection against claim 3 because neither *Selit* nor *Rothman* teaches or suggests "sending a report comprising the inventory to a listener server on the network using a communications interface prior to launching the operation system, wherein the report format type is format type in a group consisting of extensible mark up language, hypertext markup language, text in a flat file, and simple network management protocol." The Examiner acknowledges that *Selit* fails to teach or suggest these features. However, the Examiner believes that *Rothman* does teach this feature. The Examiner cites the following portion of *Rothman* for support:

> [0016] It is contemplated that the hardware configuration option data may be read from a plurality of hardware devices into a human interface infrastructure database (HIID). It is contemplated that the HIID may provide a central repository for all the hardware configuration options and, in one embodiment, the current hardware configuration settings. It is contemplated that the HIID and the IFR may be stored in a variety of formats, such as, but not limited to, extensible markup language (XML), hypertext markup language (HTML), compressed binary data, encrypted binary, or another format.
>
> [0017] It is contemplated that, in one embodiment of the disclosed subject matter, the HIID may be accessed by a runtime application, such as, for example, a web

> browser utilizing a network interface. However, it is contemplated that other applications may also access the HIID. It is contemplated that, in one specific embodiment, the HIID may be substantially compliant with the tables and databases defined in the Extensible Firmware Interface (EFI) specification. Extensible Firmware Interface (EFI) Specification, ver 1.02, Dec. 12, 2000, Intel Corp. (hereafter, "the EFI specification"). However, this is merely one specific embodiment of the disclosed subject matter.

Rothman, paragraphs 0016 and 0017

The above cited section teaches that hardware configuration option data may be read and stored in an HIID database in several formats. However, *Rothman* does not teach that a report comprising hardware inventory is sent to a listener server prior to launching the operating system.

Rothman fails to make up for the deficiencies of *Selit*. Accordingly, because neither *Selit* nor *Rothman*, teaches or suggests all the features of claim 1, the proposed combination, when considered as a whole, does not teach or suggest all the features of the claims. Thus, under the standards of *In re Royka*, the Examiner fails to state a *prima facie* obviousness rejection of claim 1. Therefore the rejection of claim 1 under 35 U.S.C 103 has been overcome.

IV.B. Claims 5-7, 19-21, and 33-35

The Examiner has rejected claims 5-7, 19-21, and 33-35 under 35 U.S.C. § 103 as being unpatentable over Selitrennikoff et al. (U.S. 6,209,089) in view of Anand et al. (U.S. 2004/0109017)(hereinafter "*Anand*"). This rejection is respectfully traversed.

Applicants have amended claim 5 to recite as follows:

> 5. The method of claim 1 further comprising:
> broadcasting a network message to a plurality of listener servers, requesting each listener servers on the network to announce themselves;
> compiling responses from the each listener server to form a list;
> presenting the list of the each listener server, wherein user input is received containing a selection of a select listener server from the plurality of listener servers, for reporting hardware changes in the data processing system; and
> saving the selection as a default listener server

The Examiner has failed to state a prima facie obviousness rejection against claim 5 because neither *Selit* nor *Anand* teaches or suggests "compiling responses from the each listener server to form a list." The Examiner acknowledges that *Selit* fails to teach or suggest these features. However, the Examiner believes that *Anand* does teach this feature. The Examiner cites the following portion of *Anand* for support:

> [0009] PXE enables a client network computer that lacks a native operating system to locate and identify an NBP through a network attachment using DHCP and its extensions. PXE also enables the client network computer to acquire the NBP from the TFTP server through that network attachment. PXE also provides

a means for running the NBP on the client to continue the network acquisition of additional software required create a user software environment that makes the client capable of performing the more complex and useful tasks assigned to it by an enterprise.

[0010] A facilitating property of DHCP is that the client does not initially need to know the address of any other computer. The client performs a DHCP broadcast to discover any DHCP server or PXE proxy server that can recognize that the client is PXE-capable. The DHCP server or PXE proxy server sends a DHCP offer to the client, which contains the address of a BINL server. The client then sends a BINL request to that BINL server. The BINL server returns a BINL reply that references the address of a TFTP boot server and the name of a file from which the client may obtain the NBP. The client then obtains the NBP and all necessary software from the boot server via the TFTP.

[0011] Enterprises use PXE as well as DHCP and its extensions as tools to aid the deployment of user software environments to clients through a network from centrally managed boot servers. Recently, user software environments deployed in this manner often include more programs than just the OS and are specific to a selected user or class of users. Other programs, such as Web browsers, Java virtual machines and even business application programs that are needed to make client computers truly productive are being deployed and supported on widely dispersed clients from centrally managed servers through "server-managed client networks."

Anand, paragraphs 0009, 0010, and 0011

The above cited section teaches enabling a client computer lacking a native operating system and directing the client computer to a boot server. When a client compatible boot server is located, the client sends a request to the compatible server to obtain the NBP. After receiving a reply from the server, the client is able to access all the necessary software to complete a boot process. However, *Anand* does not teach or suggest that responses received from all the client compatible boot servers are compiled. *Anand* does not teach or suggest the feature compiling responses from the each listener servers to form a list." Therefore, *Anand* does not make up for the deficiencies of *Selit*. Accordingly, because neither *Selit* nor *Anand*, teaches or suggests all the features of claim 5, the proposed combination, when considered as a whole, does not teach or suggest all the features of the claims.

Claim 7 contains similar subject matter with regard to claim 5. Therefore, claim 7 is not obvious for the reasons stated above with regard to similar subject matter. Thus under the standards of *In re Royka*, the Examiner fails to state a *prima facie* obviousness rejection of claims 5 and 7.

IV.C. Claims 10, 14, 24, 28, 38, 42

The Examiner has rejected claims 10, 14, 24, 28, 38, and 42 under 35 U.S.C. § 103 as being unpatentable over Selitrennikoff et al. (U.S. 6,209,089) in view of Pujure et al. (U.S. 2002/0083183

A1)(hereinafter "*Pujure*"). Applicants have canceled claims 24, 28, 38, and 42. Therefore, the rejection with respect to these claims is moot. This rejection of the remaining claims is respectfully traversed.

Applicants have amended claim 10 to recite as follows:

> 10. (Currently Amended) The method of claim 1 further comprising:
> waiting for an acknowledgment of the report from the default listener server;
> responsive to an absence of the acknowledgment of the report by the default server, selecting a second default listener server; and
> sending the report to the second default listener server.

The Examiner has failed to state a *prima facie* obviousness rejection against claim 10 because neither *Selit* nor *Pujure* teaches or suggests "responsive to an absence of an acknowledgment of the report by the default server, selecting a second default listener server The Examiner cites to the following section of *Pujure* as teaching this feature:

> [0236] Client-side Hardware Fail Over
>
> [0237] The server selection logic provides hardware failover in the following manner:
>
> [0238] a) If a server does not respond, i.e., times out, the client 1704 will pick another server from its list 1705, 1706 and re-send the request. Since all the servers in the client's server list 1705, 1706 are capable of processing the client's request, there are no questions of incompatibility.

Pujure, paragraphs 0236-0238

The above cited section teaches that when a server fails, a client can select another server from its list servers capable of processing the clients request. However, *Pujure* does not teach that the selection of a server from a list of capable servers occurs as a result of not receiving an acknowledgement of receiving a inventory report. *Pujure* fails to make up for the deficiencies of *Selit*. Accordingly, because neither *Selit* nor *Pujure*, teaches or suggests all the features of claim 10, the proposed combination, when considered as a whole, does not teach or suggest all the features of the claim.

Claim 14 contains similar subject matter with regard to claim 10. Therefore, claim 14 is not obvious for the reasons stated above with regard to similar subject matter. Thus under the standards of *In re Royka*, the Examiner fails to state a *prima facie* obviousness rejection of claims 10 and 14.

V. Objection to Claims

The Examiner has stated that claim 42 was objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Applicants have canceled claim 42. Therefore the objection with respect to this claim is moot.

VI. Conclusion

It is respectfully urged that the subject application is patentable over the cited reference(s) and is now in condition for allowance.

The Examiner is invited to call the undersigned at the below-listed telephone number if in the opinion of the examiner such a telephone conference would expedite or aid the prosecution and examination of this application.

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Respectfully submitted,

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